

THOMPSON, HINE AND FLORY

1920 N STREET, N. W.

WASHINGTON, D.C. 20036

IN CLEVELAND, OHIO  
1100 NATIONAL CITY BANK BUILDING  
CLEVELAND, OHIO 44114  
(216) 566-5500 · TELEX 980217

IN COLUMBUS, OHIO  
100 EAST BROAD STREET  
COLUMBUS, OHIO 43215  
(614) 469-7200

IN PALM BEACH, FLORIDA  
125 WORTH AVENUE  
PALM BEACH, FLORIDA 33460  
(407) 833-5900

WASHINGTON, D.C.  
TELEPHONE  
(202) 331-8800  
TELEX 904173

July 13, 1988

JUL 13 1988-1 42 PM  
INTERSTATE COMMERCE COMMISSION

Ms. Noretta R. McGee  
Secretary  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

7/13/88  
13

ICC Washington, D.C.

Dear Ms. McGee:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. § 11303 and 49 C.F.R. § 1177 are the original and one certified true copy of a Hopper Car Lease entered into as of March 10, 1988 by and between ConAgra, Inc., a Delaware corporation, successor in interest to Peavey Company, and Cedar Valley Railroad Company, an Iowa corporation.

The enclosed document is a lease dated as of March 10, 1988 and is a primary document within the meaning of 49 C.F.R. § 1177.1(a).

The names and addresses and the parties to this document are:

Lessor: ConAgra, Inc.  
(successor to Peavey Company)  
730 Second Avenue South  
Minneapolis, MN 55402

Lessee: Cedar Valley Railroad Company  
223 Main Street  
Osage, IA 50461

A description of the equipment covered by the document is as follows:

Covered hopper cars of 4750 cubic foot capacity subject of lease agreement filed under Recordation No. 10559.

A filing fee of \$13 is enclosed. Please return the original document to the bearer upon completion and recordation.

Mike Rowan

\* THOMPSON, HINE AND FLORY

Ms. Noreta R. McGee  
July 13, 1988  
Page 2

A short summary of the document to appear in the  
index is as follows:

Hopper car lease between ConAgra,  
Inc., a Delaware corporation,  
successor to Peavey Company, as  
Lessor, and Cedar Valley Railroad  
Company, an Iowa corporation, as  
Lessee, dated as of March 10, 1988,  
and covering those covered hopper  
cars that are the subject of the  
lease agreement between Peavey  
Company and Chemical Bank, dated as  
of April 1, 1979, and bearing  
Recordation No. 10559.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'PAG', with a long horizontal flourish extending to the right.

Peter A. Greene

PAG:11

Enclosure

AFFIDAVIT

1 5719

RECORDATION FEE \_\_\_\_\_ FINE \$200

District of ) ss.  
Columbia )

JUL 13 1988-1 42 PM

INTERSTATE COMMERCE COMMISSION

Peter A. Greene, having been duly sworn, deposes and says that he has compared the attached copy of the Hopper Car Lease between ConAgra, Inc., a Delaware corporation, successor to Peavey Company, and Cedar Valley Railroad Company, an Iowa corporation, dated as of March 10, 1988, to the original document and found the copy to be complete and identical in all respects to the original document.

  
Peter A. Greene

Subscribed and sworn to before me, a notary public in and for the District of Columbia, this 13<sup>th</sup> day of July, 1988.

  
Notary Public

My Commission expires: My Commission Expires January 31, 1991.

[SEAL]

JUL 13 1988 - 1 PM

HOPPER CAR LEASE

INTERSTATE COMMERCE COMMISSION

This Hopper Car Lease is entered into as of March 10, 1988 ("effective date") by and between ConAgra, Inc., successor in interest to Peavey Company, a Delaware corporation ("Lessor") and Cedar Valley Railroad Company, an Iowa corporation ("Lessee").

WHEREAS, Lessor is the sole owner or Lessee of 200 covered hopper cars with an approximate capacity of 4,750 cubic feet described on Exhibit A hereto and by this reference incorporated herein ("equipment"); and

WHEREAS, some of the equipment is subject to a lease dated as of April 1, 1979 between Peavey Company and Chemical Bank, and filed with the ICC and bearing recordation number 10559; and

WHEREAS, Lessee desires to hire and lease the equipment from Lessor and Lessor desires to lease the equipment to Lessee upon the terms and conditions of this Lease.

NOW, THEREFORE, the parties agree as follows:

Lease of Equipment

Lessor hereby leases to Lessee and Lessee hereby hires and leases from Lessor the equipment upon the terms and conditions of this Lease.

Delivery, Acceptance and Return

Said equipment is to be or has been delivered to Lessee by Lessor at Osage, Iowa or such other point as has or may be mutually agreed upon between the parties and said rolling stock equipment shall be returned to Lessor at the termination of this Agreement at such place as shall be mutually agreed upon by the parties. In taking delivery, Lessee hereby accepts said rolling stock equipment in the condition in which delivered.

Rejection of Equipment

In the event any car delivered to Lessee is in less than good and satisfactory working condition, upon written notice of the same by Lessee to Lessor, Lessee may reject such car, and Lessor, at its option, shall promptly cause said car to be either restored, repaired, or replaced at Lessor's own expense. Rent shall not be paid for such a rejected car.

Rental Charge

Lessee shall pay to Lessor the sum of Four Hundred Fifty Dollars (\$450.00) per car per month payable thirty (30) days in advance. Rental shall be computed starting with the date of delivery of each unit of equipment to Lessee and ending upon the date on which each unit of equipment is returned.

### **Car Hire Earnings**

Upon the delivery of the equipment as set forth herein, Lessee shall enjoy all car hire earnings (per diem and mileage) thereafter until the expiration or sooner termination of this lease.

### **Term**

The term of this Lease shall be for a period of eighteen (18) months from the effective date.

### **Maintenance and Repairs**

Lessee shall be responsible for all maintenance and repairs to the equipment. Upon termination of this Lease, Lessee shall deliver this equipment to Lessor in as good condition and repair as when delivered to it, ordinary wear and tear alone excepted. In the event any of said equipment is not returned in such condition, Lessor is hereby requested by Lessee to make necessary repairs thereto at the expense of said Lessee, which expense shall be paid by Lessee on demand and should any of said equipment be destroyed or for any other reason not be returned to Lessor, Lessee agrees to pay Lessor the casualty value of such equipment less the value of salvage, if any, recovered by Lessor. Casualty value is defined as the value shown on Lessor's schedule pursuant to its financing arrangements with its Bank.

### **Carryover Term**

Unless either party gives thirty (30) days written notice prior to the termination date, the contract shall continue on a month to month basis terminable by either party with thirty (30) days written notice.

### **Taxes and Expenses**

Lessee shall pay, before they become delinquent, any taxes levied because of the ownership or operation of the equipment. Lessee shall also be responsible for filing all necessary returns or reports for such taxes. Lessee is also responsible for any other expenses arising out of the ownership or operation of the equipment.

### **Insurance**

Lessee shall maintain insurance as follows:

- (a) All risk insurance against loss or damage to any of the equipment.

- (b) Comprehensive general liability insurance including blanket contractual liability endorsement and completed operations endorsement against claims for bodily injury, death and property damage affording minimum single limit protection of Five Million Dollars (\$5,000,000.00) per occurrence.
- (c) Workers' Compensation Insurance as required by state or federal law.

Lessee shall furnish certificates of insurance upon request evidencing the coverages specified.

#### **Rental Abatement for Damage or Destruction**

In the event any car is totally damaged or destroyed, the rental payment with respect to such car shall be suspended from the date Lessor receives written notification until such car is repaired or replaced. In the event any car is damaged to the extent that it must be removed from service in order to make repairs, rental payments for such car shall be suspended from the date Lessor receives written notification until such car is repaired or replaced. Lessor's right to substitute a car shall be at Lessor's sole option; the rental payments for such substituted car shall commence upon acceptance of such substituted car by lessee.

#### **Payments Received for Account of Other Party**

In the event either party receives payments from a third party which should be paid to the other, such payments shall promptly be transmitted to the other.

#### **Rights to Use of Units**

The rights of the Lessee (Cedar Valley Railroad Company) under this Lease are subordinate and junior to the rights and remedies of Chemical Bank under a Lease of Railroad Equipment dated as of April 1, 1979 between Peavey Company and Chemical Bank, and to the rights of LaSalle National Bank under the Conditional Sale Agreements referred to in the Lease between Peavey Company and Chemical Bank dated as of April 1, 1979.

#### **Hold Harmless**

Lessee further agrees as part of the consideration of this Lease to forever indemnify and save harmless Lessor, its successors and assigns, from and against any and all loss, damage, injury, death, claims, demands and liability of every nature arising directly or indirectly in connection with the use or handling of said equipment by Lessee, its employees, contractors, successors and assigns except that Lessor shall not be indemnified against its own sole negligence.

### **Assignment**

Lessee may assign or sublet this Lease or any of said equipment or rights hereunder with the written consent of Lessor, which consent shall not be unreasonably withheld.

### **Markings**

Lessee may use its own markings on the equipment, but must remove such markings prior to returning the equipment to Lessor.

### **Operation in Continental U.S. Only**

The equipment shall not be operated outside the contiguous 48 states of the United States of America without the written consent of Lessor.

### **Compliance with Laws**

Lessee shall at its own cost and expense comply with all laws, regulations and requirements with respect to the use, maintenance and operation of the equipment.

### **Inspection**

Lessor shall have the right to inspect the equipment from time to time during the term of this Lease.

### **Default**

Any failure or refusal of Lessee to properly and fully observe the terms, covenants and conditions herein contained, including the timely prepayment of rent, shall entitle Lessor to immediately terminate this Lease and resume absolute possession of said equipment wherever situated without legal demand, notice or proceeding and at the expense of Lessee, which expense, including a reasonable attorney fee (whether or not litigation occurs), shall be repaid by Lessee to Lessor on demand; a waiver of any default of Lessee hereunder shall not be taken to be a waiver of any other or subsequent default nor shall the termination of this Lease for any reason whatsoever relieve or release the Lessee from any liability or obligation growing out of or connected with the leasing of said equipment.

### **Notices**

Notices permitted or required by this Agreement shall be effective if transmitted by overnite mail, Federal Express or similar courier service, or by telex or fax if followed by mail or courier to:

Lessor  
730 Second Avenue South  
Minneapolis, MN 55402  
Attn: C.O. Buirge

Lessee  
223 Main Street  
Osage, IA 50461  
Attn: J.E. Haley

**Authority of Signatories; Binding Effect**

Each signatory to this Agreement warrants that he is authorized by his company to sign this Agreement, and that such Agreement is binding upon his principal. This Lease shall benefit and be binding upon the successors and assigns of the parties hereto.

**Return of Original**


The original of this Agreement should be returned to:

Lessor  
730 Second Avenue South  
Minneapolis, MN 55402  
Attn: C.O. Buirge

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CONAGRA, INC., successor in interest  
to PEAVEY COMPANY

BY: 

ITS: 

CEDAR VALLEY RAILROAD COMPANY

BY: 

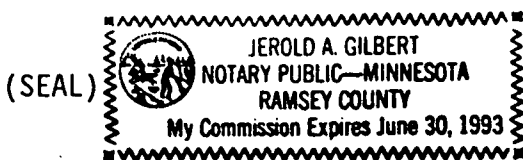
ITS: 




STATE OF MINNESOTA )  
 ) SS.  
COUNTY OF HENNEPIN )

On this, the 27th day of June, 1988, before me, the undersigned notary, personally appeared C.O. Buirge, who acknowledged himself to be the Vice President of Peavey Company, a division of CONAGRA, INC., a corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his name on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



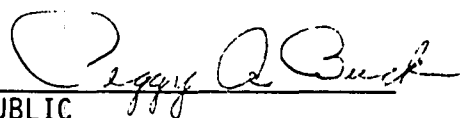
  
\_\_\_\_\_  
NOTARY PUBLIC

STATE OF Iowa )  
 ) SS.  
COUNTY OF Black Hawk )

On this, the 30th day of June, 1988, before me, the undersigned notary, personally appeared Frederick S. Tanner, who acknowledged himself to be the Vice President of CEDAR VALLEY RAILROAD COMPANY, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

  
\_\_\_\_\_  
NOTARY PUBLIC

6278-4

## CONAGRA HOPPER CARS TRANSFERED TO CEDAR VALLEY RR.

EXHIBIT A

| OLD NUMBER |      |      | NEW NUMBER |      | OLD NUMBER |      |      | NEW NUMBER |      |
|------------|------|------|------------|------|------------|------|------|------------|------|
| 1          | CAGX | 103  | CVAR       | 103  | 55         | PVGX | 1030 | CVAR       | 1030 |
| 2          | CAGX | 131  | CVAR       | 131  | 56         | PVGX | 1031 | CVAR       | 1031 |
| 3          | CAGX | 148  | CVAR       | 148  | 57         | PVGX | 1032 | CVAR       | 1032 |
| 4          | CAGX | 164  | CVAR       | 164  | 58         | PVGX | 1033 | CVAR       | 1033 |
| 5          | CAGX | 210  | CVAR       | 210  | 59         | PVGX | 1034 | CVAR       | 1034 |
| 6          | CAGX | 221  | CVAR       | 221  | 60         | PVGX | 1035 | CVAR       | 1035 |
| 7          | CAGX | 228  | CVAR       | 228  | 61         | PVGX | 1036 | CVAR       | 1036 |
| 8          | CAGX | 234  | CVAR       | 234  | 62         | PVGX | 1037 | CVAR       | 1037 |
| 9          | CAGX | 238  | CVAR       | 238  | 63         | PVGX | 1038 | CVAR       | 1038 |
| 10         | CAGX | 250  | CVAR       | 250  | 64         | PVGX | 1039 | CVAR       | 1039 |
| 11         | CAGX | 252  | CVAR       | 252  | 65         | PVGX | 1040 | CVAR       | 1040 |
| 12         | CAGX | 253  | CVAR       | 253  | 66         | PVGX | 1041 | CVAR       | 1041 |
| 13         | CAGX | 261  | CVAR       | 261  | 67         | PVGX | 1042 | CVAR       | 1042 |
| 14         | CAGX | 263  | CVAR       | 263  | 68         | PVGX | 1043 | CVAR       | 1043 |
| 15         | CAGX | 270  | CVAR       | 270  | 69         | PVGX | 1044 | CVAR       | 1044 |
| 16         | CAGX | 512  | CVAR       | 512  | 70         | PVGX | 1045 | CVAR       | 1045 |
| 17         | CAGX | 564  | CVAR       | 564  | 71         | PVGX | 1046 | CVAR       | 1046 |
| 18         | CAGX | 745  | CVAR       | 745  | 72         | PVGX | 1047 | CVAR       | 1047 |
| 19         | CAGX | 779  | CVAR       | 779  | 73         | PVGX | 1048 | CVAR       | 1048 |
| 20         | CAGX | 789  | CVAR       | 789  | 74         | PVGX | 1049 | CVAR       | 1049 |
| 21         | CAGX | 886  | CVAR       | 886  | 75         | PVGX | 1050 | CVAR       | 1050 |
| 22         | CAGX | 891  | CVAR       | 891  | 76         | PVGX | 1051 | CVAR       | 1051 |
| 23         | CAGX | 957  | CVAR       | 957  | 77         | PVGX | 1052 | CVAR       | 1052 |
| 24         | CAGX | 225  | CVAR       | 225  | 78         | PVGX | 1053 | CVAR       | 1053 |
| 25         | CAGX | 233  | CVAR       | 233  | 79         | PVGX | 1054 | CVAR       | 1054 |
| 26         | PVGX | 1000 | CVAR       | 1000 | 80         | PVGX | 1055 | CVAR       | 1055 |
| 27         | PVGX | 1001 | CVAR       | 1001 | 81         | PVGX | 1056 | CVAR       | 1056 |
| 28         | PVGX | 1002 | CVAR       | 1002 | 82         | PVGX | 1057 | CVAR       | 1057 |
| 29         | PVGX | 1003 | CVAR       | 1003 | 83         | PVGX | 1058 | CVAR       | 1058 |
| 30         | PVGX | 1004 | CVAR       | 1004 | 84         | PVGX | 1059 | CVAR       | 1059 |
| 31         | PVGX | 1005 | CVAR       | 1005 | 85         | PVGX | 1060 | CVAR       | 1060 |
| 32         | PVGX | 1006 | CVAR       | 1006 | 86         | PVGX | 1061 | CVAR       | 1061 |
| 33         | PVGX | 1007 | CVAR       | 1007 | 87         | PVGX | 1063 | CVAR       | 1063 |
| 34         | PVGX | 1008 | CVAR       | 1008 | 88         | PVGX | 1064 | CVAR       | 1064 |
| 35         | PVGX | 1009 | CVAR       | 1009 | 89         | PVGX | 1065 | CVAR       | 1065 |
| 36         | PVGX | 1010 | CVAR       | 1010 | 90         | PVGX | 1066 | CVAR       | 1066 |
| 37         | PVGX | 1011 | CVAR       | 1011 | 91         | PVGX | 1067 | CVAR       | 1067 |
| 38         | PVGX | 1012 | CVAR       | 1012 | 92         | PVGX | 1068 | CVAR       | 1068 |
| 39         | PVGX | 1013 | CVAR       | 1013 | 93         | PVGX | 1069 | CVAR       | 1069 |
| 40         | PVGX | 1014 | CVAR       | 1014 | 94         | PVGX | 1070 | CVAR       | 1070 |
| 41         | PVGX | 1015 | CVAR       | 1015 | 95         | PVGX | 1071 | CVAR       | 1071 |
| 42         | PVGX | 1016 | CVAR       | 1016 | 96         | PVGX | 1072 | CVAR       | 1072 |
| 43         | PVGX | 1017 | CVAR       | 1017 | 97         | PVGX | 1073 | CVAR       | 1073 |
| 44         | PVGX | 1018 | CVAR       | 1018 | 98         | PVGX | 1074 | CVAR       | 1074 |
| 45         | PVGX | 1019 | CVAR       | 1019 | 99         | PVGX | 1075 | CVAR       | 1075 |
| 46         | PVGX | 1021 | CVAR       | 1021 | 100        | PVGX | 1076 | CVAR       | 1076 |
| 47         | PVGX | 1022 | CVAR       | 1022 | 101        | PVGX | 1077 | CVAR       | 1077 |
| 48         | PVGX | 1023 | CVAR       | 1023 | 102        | PVGX | 1078 | CVAR       | 1078 |
| 49         | PVGX | 1024 | CVAR       | 1024 | 103        | PVGX | 1079 | CVAR       | 1079 |
| 50         | PVGX | 1025 | CVAR       | 1025 | 104        | PVGX | 1080 | CVAR       | 1080 |
| 51         | PVGX | 1026 | CVAR       | 1026 | 105        | PVGX | 1081 | CVAR       | 1081 |
| 52         | PVGX | 1027 | CVAR       | 1027 | 106        | PVGX | 1082 | CVAR       | 1082 |
| 53         | PVGX | 1028 | CVAR       | 1028 | 107        | PVGX | 1083 | CVAR       | 1083 |
| 54         | PVGX | 1029 | CVAR       | 1029 | 108        | PVGX | 1084 | CVAR       | 1084 |

# CONAGRA HOPPER CARS TRANSFERED TO CEDAR VALLEY RR.

| OLD NUMBER |           | NEW NUMBER |     | OLD NUMBER |      |
|------------|-----------|------------|-----|------------|------|
| 109        | PVGX 1085 | CVAR 1085  | 165 | PVGX       | 1145 |
| 110        | PVGX 1086 | CVAR 1086  | 166 | PVGX       | 1146 |
| 111        | PVGX 1087 | CVAR 1087  | 167 | PVGX       | 1147 |
| 112        | PVGX 1088 | CVAR 1088  | 168 | PVGX       | 1148 |
| 113        | PVGX 1089 | CVAR 1089  | 169 | PVGX       | 1150 |
| 114        | PVGX 1090 | CVAR 1090  | 170 | PVGX       | 1151 |
| 115        | PVGX 1091 | CVAR 1091  | 171 | PVGX       | 1152 |
| 116        | PVGX 1092 | CVAR 1092  | 172 | PVGX       | 1153 |
| 117        | PVGX 1094 | CVAR 1094  | 173 | PVGX       | 1155 |
| 118        | PVGX 1095 | CVAR 1095  | 174 | PVGX       | 1156 |
| 119        | PVGX 1096 | CVAR 1096  | 175 | PVGX       | 1157 |
| 120        | PVGX 1097 | CVAR 1097  | 176 | PVGX       | 1159 |
| 121        | PVGX 1098 | CVAR 1098  | 177 | PVGX       | 1160 |
| 122        | PVGX 1099 | CVAR 1099  | 178 | PVGX       | 1161 |
| 123        | PVGX 1100 | CVAR 1100  | 179 | PVGX       | 1162 |
| 124        | PVGX 1101 | CVAR 1101  | 180 | PVGX       | 1163 |
| 125        | PVGX 1102 | CVAR 1102  | 181 | PVGX       | 1164 |
| 126        | PVGX 1104 | CVAR 1104  | 182 | PVGX       | 1165 |
| 127        | PVGX 1106 | CVAR 1106  | 183 | PVGX       | 1166 |
| 128        | PVGX 1107 | CVAR 1107  | 184 | PVGX       | 1167 |
| 129        | PVGX 1108 | CVAR 1108  | 185 | PVGX       | 1169 |
| 130        | PVGX 1109 | CVAR 1109  | 186 | PVGX       | 1170 |
| 131        | PVGX 1110 | CVAR 1110  | 187 | PVGX       | 1171 |
| 132        | PVGX 1111 | CVAR 1111  | 188 | PVGX       | 1172 |
| 133        | PVGX 1112 | CVAR 1112  | 189 | PVGX       | 1173 |
| 134        | PVGX 1113 | CVAR 1113  | 190 | PVGX       | 1174 |
| 135        | PVGX 1114 | CVAR 1114  | 191 | PVGX       | 2078 |
| 136        | PVGX 1115 | CVAR 1115  | 192 | PVGX       | 2080 |
| 137        | PVGX 1116 | CVAR 1116  | 193 | PVGX       | 2083 |
| 138        | PVGX 1117 | CVAR 1117  | 194 | PVGX       | 2085 |
| 139        | PVGX 1118 | CVAR 1118  | 195 | PVGX       | 2086 |
| 140        | PVGX 1119 | CVAR 1119  | 196 | PVGX       | 2089 |
| 141        | PVGX 1121 | CVAR 1121  | 197 | PVGX       | 2105 |
| 142        | PVGX 1122 | CVAR 1122  | 198 | PVGX       | 2110 |
| 143        | PVGX 1123 | CVAR 1123  | 199 | PVGX       | 2123 |
| 144        | PVGX 1124 | CVAR 1124  | 200 | PVGX       | 2124 |
| 147        | PVGX 1127 | CVAR 1127  |     |            |      |
| 148        | PVGX 1128 | CVAR 1128  |     |            |      |
| 149        | PVGX 1129 | CVAR 1129  |     |            |      |
| 150        | PVGX 1130 | CVAR 1130  |     |            |      |
| 151        | PVGX 1131 | CVAR 1131  |     |            |      |
| 152        | PVGX 1132 | CVAR 1132  |     |            |      |
| 153        | PVGX 1133 | CVAR 1133  |     |            |      |
| 154        | PVGX 1134 | CVAR 1134  |     |            |      |
| 155        | PVGX 1135 | CVAR 1135  |     |            |      |
| 156        | PVGX 1136 | CVAR 1136  |     |            |      |
| 157        | PVGX 1137 | CVAR 1137  |     |            |      |
| 158        | PVGX 1138 | CVAR 1138  |     |            |      |
| 159        | PVGX 1139 | CVAR 1139  |     |            |      |
| 160        | PVGX 1140 | CVAR 1140  |     |            |      |
| 161        | PVGX 1141 | CVAR 1141  |     |            |      |
| 162        | PVGX 1142 | CVAR 1142  |     |            |      |
| 163        | PVGX 1143 | CVAR 1143  |     |            |      |
| 164        | PVGX 1144 | CVAR 1144  |     |            |      |